

MAYOR & COUNCIL AGENDA COVER SHEET

MEETING DATE:

August 11, 2003

CALL TO PODIUM:

Patricia Patula, Planner

RESPONSIBLE STAFF:

Patricia Patula, Planner
Trudy Schwarz, Director,
Community Planning
Jennifer Russel, Director,
Planning and Code
Administration

AGENDA ITEM:

(please check one)

<input type="checkbox"/>	Presentation
<input type="checkbox"/>	Proclamation/Certificate
<input type="checkbox"/>	Appointment
<input type="checkbox"/>	Public Hearing
<input type="checkbox"/>	Historic District
<input type="checkbox"/>	Consent Item
<input type="checkbox"/>	Ordinance
<input type="checkbox"/>	Resolution
<input type="checkbox"/>	Policy Discussion
<input checked="" type="checkbox"/>	Work Session Discussion Item
<input type="checkbox"/>	Other:

TITLE:

Joint Work Session
T-354 Text Amendment
Accessory Structures

SUPPORTING BACKGROUND:

The public hearing on this text amendment was held on August 19, 2002, and the record held open indefinitely. This text amendment applies primarily to single family dwellings that are not in the MXD Zone. No changes are proposed for townhouse communities.

The issues from the public hearing and open record period are as follows and will be addressed in a power point presentation by staff with recommendations.

1. Rockville and Montgomery County accessory structures requirements
2. Setbacks for accessory structures as related to square footage of structure
3. Garage footprint size and height in relation to primary structure
4. Calculation process for lot coverage/zoning limitations affecting size of accessory structures
5. Reference to animals, particularly house pets
6. MXD (Mixed Use Development) Zone clause
7. Clarifications of certain definitions

Attached are the PowerPoint presentation, transcript, and charts providing background information as well as the draft with suggested revisions.

Suggested dates:

September 3 — Planning Commission record close
and recommendation to City Council
September 5 — City Council record close
September 15 — City Council policy discussion

DESIRED OUTCOME:

Provide staff guidance

PUBLIC HEARING HISTORY:

(Please complete this section if agenda item is a public hearing)

Introduced	
Advertised	
Hearing Date	
Record Held Open	
Policy Discussion	

City of Gaithersburg, Maryland
Work Session August 11, 2003

Text Amendment T-354 Accessory Structures

Summary

The public hearing on this text amendment was held August 19, 2002. This text amendment applies primarily to single family dwellings that are not in the MXD (Mixed Use Development) Zone. In townhouse developments, the accessory structures requirements remain the same. A summary of the proposed changes in the amended draft are as follows:

- * Accessory structures (excluding garages) under 144 square shall not be less than three (3) feet from any lot line. If 144 square feet or greater, they must be located at least ten (10) feet from the property line. They cannot exceed fifteen (15) feet in height.
- * The footprint of a detached garage must not exceed 50 percent of the footprint of the primary structure or a standard two-car garage not to exceed 576 square feet, whichever is greater. The garage cannot exceed fifteen (15) feet in height.
- * In lots created prior to October 14, 1958, garages may be located not less than two (2) feet from the property line if this is consistent with the design of the neighborhood.
- * The clause referencing requirements for animal enclosures excludes household pets.
- * These regulations are not applicable to the MXD zone communities since they have their own architectural guidelines.
- * Certain definitions have been clarified, such as accessory uses and structures, footprint, lot coverage, yard, and building line.

The revised draft follows. Please use the key below to interpret the proposed changes.

Key:

Boldface	Heading or defining term
<u>Underlining</u>	Added to existing ordinance by original draft
[Single brackets]	Deleted from existing ordinance by original draft
<u>Double underlining</u>	Added by amendment
[[Double brackets]]	Deleted from draft by amendment
* * *	Existing ordinance unaffected by text amendment

ORDINANCE NO. _____

AN ORDINANCE TO AMEND CHAPTER 24 OF THE CITY CODE (CITY ZONING ORDINANCE), ARTICLE I, ENTITLED "IN GENERAL," SECTION 24-1 ENTITLED, "DEFINITIONS," ARTICLE III ENTITLED "REGULATIONS APPLICABLE TO PARTICULAR ZONES," SECTIONS 24-22, 24-24, 24-28, 24-30, 24-43, 24-56, 24-66, 24-75, 24-102, 24-111, 24-117, 24-123, 24-136, 24-151, 24-160A, AND 24-160E.2, SO AS TO REDEFINE ACCESSORY STRUCTURES AND USES, ELIMINATE CERTAIN DEFINITIONS AND DEFINE CERTAIN TERMS, AS WELL AS REVISE TERMINOLOGY AND REGULATIONS OF ACCESSORY USES AND STRUCTURES IN THE R-6, R-B, C-B, R-A, R-90, R-90 CLUSTER, RP-T, R-20, R-18, R-H, C-P, C-1, C-2, C-3, I-1, E-1, E-2 AND H-M ZONES, AND FURTHER TO AMEND ARTICLE IV ENTITLED, "SUPPLEMENTARY ZONE REGULATIONS," SECTION 24-163 SO AS TO AMEND STANDARDS AND REQUIREMENTS AS TO ACCESSORY STRUCTURES AND GARAGES GENERALLY.

Text Amendment T-354

BE IT ORDAINED, by the Mayor and City Council of the City of Gaithersburg, Maryland, in public meeting assembled, that Chapter 24 of the City Code (City Zoning Ordinance), Article I, Section 24-1, Article III, Sections 24-22, 24-24, 24-28, 24-30, 24-43, 24-56, 24-66, 24-75, 24-102, 24-111, 24-117, 24-123, 24-136, 24-151, 24-106A, 24-160E.2 and Article IV, Section 24-163, are hereby amended to read as follows:

ARTICLE I. IN GENERAL

Sec. 24-1. Definitions.

* * *

Accessory structure. A structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal structure, and is not attached by any part of a common wall or common roof to the main building.

Accessory use [or structure]. A use [or structure] on the same lot with, and of a nature customarily incidental and subordinate to, the principal use [or structure] of the main building or lot.

* * *

Automobile garage, private. An accessory building or portion of a main building designed, arranged or used for the housing of private motor vehicles, only one of which may be a commercial vehicle. No more than fifty (50) percent of the space in such a garage shall be used for housing vehicles other than those owned by occupants of the premises; except, that all of the space in a garage of one or

two-car capacity may be rented]. If the garage is calculated as part of required parking, it must provide unobstructed space for the vehicles.

[*Automobile garage, public.* A building or portion thereof, other than an automobile salesroom, held out or used for housing of six (6) or more vehicles where service or repair facilities, if any, are incidental to the principal use for storage. Such garage shall not be considered an accessory use, nor shall it be used for the storage of dismantled or wrecked motor vehicles, parts hereof or junk.]

* * *

[*Building, accessory.* A building subordinate to and located on the same lot as the main building, the use of which is clearly incidental to that of the main building or to the use of the land, and which is not attached by any part of a common wall or common roof to the main building.]

Building coverage. See lot coverage.

* * *

Building line. A line beyond which the foundation wall of the main building or any enclosed porch, vestibule or other enclosed portion of a building shall not project.

* * *

Footprint. A designated area covered by the foundation wall of a structure or area of the base on which a structure stands or is supported.

* * *

Lot coverage. The net lot area covered by buildings including accessory buildings and covered decks, porches, stoops, and steps. This does not relate to the impervious surface coverage considered in storm water management requirements.

* * *

[*Use, accessory.* A use of a building, lot or portion thereof, which is customarily incidental and subordinate to the principal use of the main building or lot.]

* * *

Yard. A required open space unoccupied and unobstructed by the main [[any]] structure or portion thereof [[of a structure]], subject to height limitations as indicated herein.

ARTICLE III. REGULATIONS APPLICABLE TO PARTICULAR ZONES

DIVISION 1A. GENERALLY

Sec. 24-22. Permitted and special exception uses.

* * *

(b) *[Residential zones.] R-6 Zone.*

Use

Accessory *[buildings]* structures and uses ¹

Zone R-6
P

* * *

¹ Subject to the provisions of Article IV, section 24-163 and section 24-24 (5) of this chapter.

* * *

(c) *Buffer zones*

Use

Zone RB

Zone CB

Accessory *[buildings]* structures and uses

P ¹

P ¹

* * *

¹ Accessory structures in these zones are subject to the provisions of Article IV, section 24-24(5) and section 24-163. [Notwithstanding the requirements in section 24-163, accessory buildings in this zone shall be located in a rear yard (except garages and carports); shall not be located within three (3) feet of any side or rear lot line;] and shall not exceed twenty (20) percent of the maximum allowable building coverage.

* * *

DIVISION 1. RA ZONE, LOW DENSITY RESIDENTIAL

* * *

Sec. 24-24. Uses permitted by right.

The following uses are permitted by right:

* * *

[(5) Accessory uses and structures, including, but not limited to, home based businesses authorized pursuant to Article X, Chapter 24 of this Code, and private swimming pools.]

(5) Accessory uses and structures, except landscape nurseries, including, but not limited to:

- (a) The renting of rooms to not more than two (2) persons by the occupant of a dwelling.
- (b) Private swimming pools.
- (c) Accessory structures must conform to requirements of Section 24-163 of this Code.

* * *

(8) Home based businesses authorized pursuant to Article X, Chapter 24 of this Code.

* * *

DIVISION 2. R-90 ZONE, MEDIUM DENSITY RESIDENTIAL

* * *

Sec. 24-28. Uses permitted by right.

The following uses are permitted by right in the R-90 Zone.

* * *

(5) Accessory structures and uses [and structures], except nurseries, including, but not limited to:

- (a) Home based businesses authorized pursuant to Article X, Chapter 24 of this Code.
- (b) The renting of rooms to not more than two (2) persons by the occupant of a dwelling[, and the provision of table board for such persons].
- (c) Greenhouses, provided, that no products are sold.
- [(d) Accessory structures containing less than one hundred twenty (120) square feet of floor area and limited to one story in height shall be exempt from the rear and side yard setback requirements; provided, that any such structure is located within the rear yard and no closer than three (3) feet from any lot line.]
- (d) Accessory structures must conform to requirements in Section 24-163 of this Code.

Sec. 24-30. Cluster development.

The following shall apply to cluster developments in the R-90 Zone:

* * *

- (4) *Permitted uses.* The following uses shall be permitted in a cluster development:

* * *

(c) Accessory [buildings] structures and uses [.] except nurseries, including but not limited to:

- (1) Home based businesses authorized pursuant to Article X, Chapter 24 of this Code.
- (2) The renting of rooms to not more than two (2) persons by the occupant of a dwelling.
- (3) Accessory structures must conform to requirements in Section 24-163 of this Code.

* * *

DIVISION 4. RP-T ZONE, MEDIUM DENSITY RESIDENTIAL

* * *

Sec. 24-43. Permitted uses.

The following uses shall be permitted:

* * *

- (8) Accessory uses, including home based businesses authorized pursuant to Article X, Chapter 24 of this Code, and accessory structures. Accessory structures shall be located in the rear yard only and, if accessory to a townhouse form of development, shall occupy no greater than forty-eight (48) square feet of rear yard area. Accessory structures erected in other forms of development must adhere to the requirements of section 24-163 of this Code.

* * *

DIVISION 5. R-20 ZONE, MEDIUM DENSITY RESIDENTIAL

* * *

Sec. 24-56. Uses permitted by right.

The following uses are permitted by right in the R-20 Zone:

* * *

(5) Accessory uses and structures including but not limited to:

- (a) Accessory uses and structures permitted in the R-90 Zone. Accessory structures shall be located in the rear yard only and, if accessory to a townhouse form of development, shall occupy no greater than forty-eight (48) square feet of rear yard area. Accessory structures erected in other forms of development must adhere to the requirements of section 24-163 of this Code.
 - [(b) Business office for the administration of multiple-family dwellings containing more than twenty-four (24) dwelling units.]
 - (b) (b) Swimming pools for the exclusive use of the residents of the dwelling or dwellings located on the same parcel or lot.
 - (c) (c) Home based businesses authorized pursuant to Article X, Chapter 24 of this Code.
- * * *

- (10) Business office, accessory to the main use, for the administration of multiple-family dwellings.
- * * *

DIVISION 6. R-18 ZONE, MEDIUM DENSITY PLANNED RESIDENTIAL

* * *

Sec. 24-66. Permitted uses.

The following uses shall be permitted in the R-18 Zone:

* * *

- (9) Accessory uses and structures shall be located in the rear yard only and, if accessory to a townhouse form of development, shall occupy no greater than forty-eight (48) square feet of rear yard area. Accessory structures erected in other forms of development

must adhere to the requirements of section 24-163 of [the zoning ordinance] this Code.

* * *

DIVISION 7. R-H ZONE, HIGH DENSITY RESIDENTIAL

Sec. 24-75. Permitted uses.

The following uses shall be permitted in the R-H Zone:

* * *

- (8) Accessory uses and structures shall be located in the rear yard only and, if accessory to a townhouse form of development, shall occupy no greater than forty-eight (48) square feet of rear yard area. Accessory structures erected in other forms of development must adhere to the requirements of section 24-163 of [the zoning ordinance] this Code.

* * *

DIVISION 10. C-P ZONE, COMMERCIAL OFFICE PARK

Sec. 24-102. Uses.

No building, structure or land shall be used and no building or structure shall be hereafter erected, structurally altered, enlarged or maintained in the C-P Zone, except for one or more of the following uses:

A. Uses permitted by right.

* * *

- (2) Accessory uses and structures and uses in compliance with section 24-163 of this Code.

* * *

DIVISION 11. C-1 ZONE, LOCAL COMMERCIAL

* * *

Sec. 24-111. Uses permitted by right.

The following uses are permitted by right in the C-1 Zone:

- * * *
- (7) Accessory uses and structures in compliance with section 24-163 of this Code.
- * * *

DIVISION 12. C-2 ZONE, GENERAL COMMERCIAL

* * *

Sec. 24-117. Uses permitted by right.

The following uses are permitted by right in the C-2 Zone:

* * *

- (14) Accessory uses and structures [and uses, including but not limited to on-site signs permitted in C-1 Zone; except, that signs shall not exceed in the aggregate fifteen (15) square feet of area for each ten (10) linear feet of street frontage] in compliance with section 24-163 of this Code.
- * * *

DIVISION 13. C-3 ZONE, HIGHWAY COMMERCIAL

Sec. 24-123. Permitted uses.

The following uses are permitted in the C-3 Zone:

* * *

- (5) Accessory uses and structures in compliance with section 24-163 of this Code.

DIVISION 14. I-1 ZONE, LIGHT INDUSTRIAL

* * *

Sec. 24-136. Uses permitted by right.

The following uses are permitted by right in the I-1 Zone:

* * *

H. Other Uses

- (1) Accessory uses and structures, in compliance with section 24-163 of this Code, including, but not limited to:
- (a) Retail sales of products manufactured on the premises.
 - (b) Living quarters for owners, caretakers or watchmen and their families.
- * * *

DIVISION 17. E-1 ZONE, URBAN EMPLOYMENT

Sec. 24-151. Permitted uses.

The following uses are permitted in the E-1 Zone:

- * * *
- (18) Accessory uses and structures in compliance with section 24-163 of this Code.
- * * *

DIVISION 18. E-2 ZONE, MODERATE INTENSITY INDUSTRIAL PARK

* * *

Sec. 24-160A. Permitted uses.

* * *

Accessory uses and structures [buildings and uses.] in compliance with section 24-163 of this Code.

* * *

DIVISION 20. H-M ZONE, HOTEL-MOTEL

* * *

Sec. 24-160E.2. Uses allowed.

(a) The following uses are permitted uses in [this zone] the H-M Zone:

Accessory uses and structures [buildings and uses.] in compliance with section 24-163 of this Code.

* * *

ARTICLE IV. SUPPLEMENTARY ZONE REGULATIONS

* * *

Sec. 24-163. Accessory [buildings and] structures and garages.

(a) Accessory structures. Any accessory [building or] structure, as defined in section 24-1, with the exception of a garage, shall be located only in the rear yard. [and the] The total ground area of all accessory [buildings and] structures shall occupy no more than twenty-five (25) percent of the rear yard. Accessory structures less than [[120]] 144 square feet of floor area shall not be less than three (3) feet from any lot line unless allowed by a specific zone. Accessory [buildings and] structures greater than [[120]] 144 square feet of floor area shall not be less than ten (10) feet from any side or rear lot line [;]. [provided however, that] In cases where an accessory [building,] structure, enclosure, coop or run or any part thereof is used for the housing, shelter or sale of animals or fowl, other than a household pet, said structure shall be at least twenty-five (25) feet from any [interior] side or rear lot line and at least seventy-five (75) feet from any existing dwelling on an adjoining lot. The footprint of an accessory structure must not be larger than fifty (50) percent of the footprint of the primary structure, except garages as noted in section 24-163(b), nor can the height exceed fifteen (15) feet [one and one-half stories]], unless approved by the Planning Commission. [Garages may be located in any front, side or rear yard area, but may only be located in a setback restriction area when they are part of a comprehensive design theme for a subdivision and are shown on an approved site development plan.]

(b) Garages, as accessory structures.

- (1) Garages, in this instance, are those that are detached structures or attached to the main house only by a breezeway.
- (2) Garages shall not be less than ten (10) feet from any side or rear lot line.
- (3) Garages may also be located in any front or side yard area, and/or in a setback restriction area when they are part of a

comprehensive design theme for a subdivision and are shown on an approved site development plan.

(4) The footprint of the garage must not exceed fifty (50) percent of [[be larger than]] the footprint of the primary structure or a standard size two-car garage not to exceed 576 square feet, whichever is greater, nor must the height exceed fifteen (15) feet [[one and one-half stories]] unless approved by the Planning Commission. In lots created prior to October 14, 1958, garages may be located not less than two (2) feet from the property line if this is consistent with the design of the neighborhood.

(c) These restrictions do not apply to Schematic Development plans, final site plans or other plans for an approved residential community in the MXD (Mixed Use Development) Zone.

ADOPTED by the City Council of Gaithersburg, Maryland, this _____ day of _____, 2003.

SIDNEY A. KATZ, Mayor and President
of the City Council

DELIVERED to the Mayor of the City of Gaithersburg, Maryland this _____ day of _____, 2003. APPROVED/VETOED by the Mayor of the City of Gaithersburg, Maryland this _____ day of _____, 2003.

SIDNEY KATZ, Mayor

THIS IS TO CERTIFY that the foregoing Ordinance was adopted by the City Council of Gaithersburg, in public meeting assembled, on the _____ day of _____, 2003 and the same was APPROVED/VETOED by the Mayor of the City of Gaithersburg On the _____ day of _____, 2003. This Ordinance will become effective on the _____ day of _____, 2003.

DAVID B. HUMPTON, City Manager

ACCESSORY STRUCTURES

T-354

Issues from Public Hearing

- Comparison of Gaithersburg (initial proposal) Rockville, & Montgomery County
- Setbacks
- Detached garages footprint/height
- Calculation process
- Household pets
- MXD Clause
- Additional text modifications

Research

- 9,000 sf lots compared
- Rear yards only
- 25% rear yard coverage
- Setbacks similar to City's 3' if land abuts
- Lot coverage similar

Setbacks

Current:

- Less than 120 sf, setback min 3'
- 120 sf plus, setback min 10'

Change to:

- Less than 144 sf, setback min 3'
- 144 sf plus, setback min 10'
- Height from 1 ½ stories to 15 ft

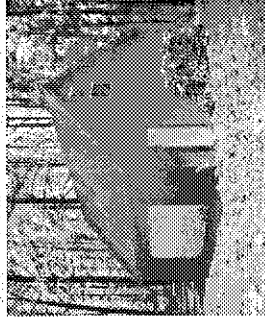
Detached Garages

Proposed at public hearing

- Footprint not more than house footprint
- Height not to exceed 1 ½ stories

Change to:

- Footprint not to exceed 50% of house footprint or a standard size 2-car garage not to exceed 576 sf whichever is greater
- Height not to exceed 15 feet



Footprint: Garage/House

<u>House size</u>	<u>50%</u>	<u>2-car garage</u>	<u>576 sf</u>
700 sf	350 sf		
837 sf	419 sf	576 sf is 68%	
900 sf	450 sf	576 sf is 64%	
1000 sf	500 sf	576 sf is 57.6%	
1200 sf	600 sf	576 sf is 48%	
1500 sf	750 sf	576 sf is 38.4%	
1800 sf	900 sf	576 sf is 32%	

Calculation Process

- Calculate
 - Rear yard sf
 - Allowable 25% of rear yard square feet
 - House footprint
 - Proposed garage footprint sf
 - Total garage/accessory structures sf
 - Check against zoning, e.g., 30% lot coverage, 50% green space

Animals

Current:

Structures used for animals need to be 25' from lot line and 75' from existing dwellings on adjoining lots.

Add:

House pets excluded from outdoor structure requirements

MXD Clause

- These restrictions would not apply to
 - SDP's
 - Final site plans, etc. in approved communities in the MXD zone

Clarification of Definitions

- Building line
- Yard
- Lot coverage
- Building coverage

CHART A

COMPARISON OF ACCESSORY STRUCTURES IN R-90 ZONES

Feature	Gaithersburg R-90 Zone Proposed in T-354	Rockville R-90 Zone	Montgomery County R-90 Zone
Minimum lot size	9,000	9,000	9,000
Maximum lot coverage	30%	25%	30%
Side yard setback for accessory structures	3' min under 120 10' min setback over 120	If street abutting 20' min setback	60' See **
Side yard setback for accessory structures	3' min under 120 10' min setback over 120	If land abutting 3' min setback	From a side lot line 5' See **
Rear yard setback for accessory structures	3' min setback under 120 sf 10' min setback over 120 sf	3' min setback	From a rear lot line 5' See **
Placement of accessory structures	Rear yard only (Garages exempted in certain approved subdivision plans)	Rear yard only	Rear yard only
Rear yard coverage for ALL accessory structures (percentage)	Not more than 25% total coverage	Not more than 25% total coverage	Not more than 25% total coverage
Footprint Ratio	Accessory structures not more than 50% of primary structure; Garages not larger than footprint of primary building	Not addressed	Not addressed
Height	Garage, not more than 1 ½ story Others, not more than 1 ½ stories unless approved by Planning Commission	Not more than 1 story; not to exceed 15'	See * For an accessory bldg not to exceed 2 stories, the height from existing grade shall not exceed 25'
Corner Lots	Not addressed	Not addressed	Detailed criteria
Structures for Animals or fowl	25' from any side or rear lot line and 75' from an existing dwelling on adjoining lot	Not addressed	"other than a household pet" Rear yard only, from lot line 25' From another dwelling 100'
Historic Areas	Not less than 2' from property line if lot created prior to Oct 14, 1958; must be consistent with neighborhood	Not addressed	The minimum lot width at the building line and yard requirements for a main building or an accessory building or structure may be reduced when the lot is located in a historic district in accordance with the provisions of Sec. 59-A-6.23.

*For any accessory building or structure in the zones indicated (R-90 is one of them) with a height greater than 15 feet, the side yard and rear yard minimum setback must be increased from the requirements above at a ratio of one foot of additional setback for each foot of height in excess of 15 feet.

**For any accessory building or structure in the zones indicated (R-90 is one of them) with a length along a rear or side property line which has a linear dimension greater than 24 feet, the minimum setback from that rear or side property line must be increased from the requirement above at a ratio of one foot for every 2 feet that the dimension exceeds 24 linear feet.

CHART B
CALCULATIONS FOR
ACCESSORY STRUCTURES AND GARAGES
IN R-90 ZONE

REGULATIONS:

Section 24-32. Dimensional Restrictions of R-90

Lot coverage maximum of 30%

Green space requirement of 50%

Section 24-163. Accessory structures

25% of rear yard coverage maximum for all accessory structures

EXAMPLE:

Statistics of existing lot in Brown's Addition:*

Lot size	9,000 sf
House size (footprint)	1456 sf
Rear yard	4533 sf
Allowable 25% of rear yard	1133.25 sf
Required green space for lot 50%	4500 sf
Maximum lot coverage 30%	2700 sf

Garage Request:

50% of house footprint is 728 sf

Checks and Balances of the Zone:

House of 1456 sf and garage of 728 sf = 2184 sf

Lot coverage maximum is 2700 sf. Meets lot coverage requirements

Rear yard of 1133.25 sf.

Garage coverage of 728 sf allows another accessory structure, such as a shed.

****Note: Numbers subject to verification on site.***

TRANSCRIPT OF
JOINT PUBLIC HEARING

ON

T-354 - Proposal to Amend Chapter 24 of the City Code (City Zoning Ordinance), Article I, Entitled "In General," §24-1 Entitled, "Definitions," Article III, Entitled, "Regulations Applicable to Particular Zones," §24-22, §24-24, §24-28, §24-30, §24-43, §24-56, §24-66, §24-75, §24-102, §24-111, §24-117, §24-123, §24-136, §24-151, §24-160A, and §24-160E.2, so as to Redefine Accessory Structures and Uses, Eliminate Certain Definitions and Define Certain Terms, as Well as Revise Terminology and Regulations of Accessory Uses and Structures in the R-6, R-B, C-B, R-A, R-90, R-90 Cluster, RP-T, R-20, R-18, R-H, C-P, C-1, C-2, C-3, I-1, E-1, E-2, and H-M Zones, and Further to Amend Article IV Entitled, "Supplementary Zone Regulations," §24-163 so as to Amend Standards and Requirements as to Accessory Structures and Garages Generally

BEFORE THE
CITY OF GAITHERSBURG
MAYOR AND CITY COUNCIL

AND
PLANNING COMMISSION

ON

August 19, 2002

Transcribed by
Doris R. Stokes
August, 2002

PARTICIPANTS

CITY COUNCIL

Mayor Katz
Council Vice President Edens
Council Member Alster
Council Member Marraffa
Council Member Schilchting
Council Member Somerset

PLANNING COMMISSION

Chair Keller
Vice Chair Bauer
Commissioner Hicks
Commissioner Levy

CITY MANAGER

David B. Humpton

CITY ATTORNEY

Cathy Borten

STAFF

Planner Patula

OTHER SPEAKERS

Sherri Hendry, 9113 Rosemont Drive, President of the Rosemont Citizens Association
Linus L. Klitsch, 9320 Edgewood Court
Lisa Kennel, 9201 Rosemont Drive
Jon May, 8940 Edgewood Drive

Katz The next item that we have is a public hearing. I would like to invite the Planning Commission to please come and join us. And while we are doing that, if I could ask Pat Patula to please come forward.

Patula Good evening. This is a public hearing on T-354. This hearing has been duly advertised in the *Gaithersburg Gazette* on July 31 and August 7, 2002 and on the City's website. At the present time there are seven exhibits in the record file. These exhibits are referenced in an exhibit list in the file. The individual exhibits may be reviewed during the course of the meeting or in the Planning Office during regular business hours at City Hall. Any objections to the receipt of any exhibits should be noted prior to the closing of the record; otherwise they will be deemed received in evidence. If I could ask you to direct your attention to our screen. This text amendment is a housekeeping item that staff has been working on for sometime. And most of the language changes are to bring uniformity throughout the various zones in the City Code so that they coordinate with Section 24-163. Section 24-163 deals specifically with accessory structures and uses. The zones effect by this text amendment are only those zones that require setbacks. For example, the MXD zone which does not have specific setbacks is not affected. The new language in Section 24-163 aims to clarify setbacks and heights of accessory structures such as sheds and garages, as well as percentages of footprints relationships between accessory and primary structures. Already existing in Section 24-163 and other sections of the City Code and in practice for the issuance of permits are the following criteria. If the accessory structure is smaller than 120 square feet, then it must be setback a minimum of three feet from the lot line. If the accessory structure is larger than 120 square feet, it must be at least ten feet from the lot line. Exceptions are townhouse zones which limits an accessory structure in the rear yard to 48 square feet in size and there are no setbacks. A total ground area of accessory structures should not exceed 25 percent of the rear yard. Newly added to Section 24-163 are footprints

and height restrictions and these are grouped into two categories: accessory structures in general and garages in particular. First let's look at the accessory structures in general. The footprint of the accessory structure cannot be larger than 50 percent of the primary structure except garages. The height of an accessory structure cannot be higher than 1-1/2 stories unless approved by the Planning Commission. Now regarding detached garages. Detached garages are accessory structures and we listed them separately in the ordinance for clarification purposes. This includes detached garages that are connected to the main house by a breezeway. They shall not be less than 10 feet from the side or rear lot line. And the footprint of the garage must not be larger than that of the primary structure. And again, the height of the garage cannot exceed 1-1/2 stories. Already in the ordinance is a reference to a different garage placement permitted as part of an approved site plan. An example of this is the Saybrooke community, where the detached garage is extended to the front yard and are continued to the houses by breezeways. New additional language to assist with new garages in the older areas of the City reads as follows: in lots created prior to October 14, 1958, that is the adopted date and requirements for accessory structures, garages may be located not less than two feet from the property line, if this is consistent with the design of the neighborhood. Now that sentence if we included in the new text amendment, will enable new garages in these older areas of the City to be placed in a location that is more appropriate with the historical design of that particular subdivision. As a 1958, the zoning ordinance was amended requiring garages to be at least two feet from the lot line. Prior to that, a lot of them were built right on the lot line. For example, in the Historic District, Observatory Heights, and Realty Park. And as you recall, whenever we were reviewing, when the Historic District Commission was reviewing the proposed guidelines changes to the Brookes, Walker, Russell Historic District, we had added a section on garages that allowed them to be, what we were hoping to be two feet from the lot line. And the final adoption of those guidelines is waiting for the

adoption of this text amendment. So that concludes our presentation. And I would like to thank David Heyman, our summer intern for his technical assistance in preparing the PowerPoint presentation.

Katz Thank you Pat. That was a really good presentation. I think it should be noted that they sent us a copy, a cover of the zoning ordinance for the Town of Gaithersburg in 1958, sold for 50 cents, so we have come a long way in a lot of ways. Now are there any questions of Pat?

Marraffa I wanted to ask for some clarification. I really don't know how we came about the statute on the size of the accessory buildings. (inaudible) most of ones that buy commercially are either 10 x 12 or 12 x 12. Is there any reason why you didn't include the 12 x 12?

Patula Not that I know of. That section was always in the ordinance and we can modify that.

Marraffa Because, it just being that, now that I am a contractor, I've had the calls to build sheds. You know the standard way builders build is 12 x 12 because it fits all the plywood. It makes it nice and neat and simple. And I was just wondering if there is a reason that I missed out on (inaudible). Because if you go to Lowes or any other place that sells structures. They will sell to you 10 x 12 because that the (inaudible), but they also sell 12 x 12 which is the standard size. I don't know if there is a reason or (inaudible).

Katz Could we research what the county is doing?

Patula Sure.

Marraffa And the other thing is on some of the setbacks on the problems that I have observed a couple of houses that I was in, is when you do the setbacks of

property lines, especially with garages and/or accessory buildings, if you move it ten foot and the two yards back up together it become a junk haven. Whereas if we were allowed to go back to the old days where they were two feet, you couldn't put junk back there because there wasn't enough room. Now you go to houses and you see them and they pile all their junk. And that is worse than whatever we are trying to do with the building, so I would like to see if, maybe we can chat about that a little bit and see. I don't know all the other overriding (inaudible), but you can look at some of the places where you have that, the backyards back up to each other, it becomes a junk haven and it really looks unsightly. And I've seen two to three houses like that with friends of mine where their neighbors have junk piled out there. So if anything else, I would like to look into those. It's not a big deal, but it's a deal an issue. -

Katz Any other questions of staff?

Alster I have a couple. We got a neighborhood that is partly in the City and part of it not in the City, in fact you live there.

Patula I know which you speak.

Alster They are not in the City where the footprint appears to approximate that of the house and to me it is completely out of scale. I have real concerns with allowing the accessory structures that equal the footprint of the house, we are encouraging other uses.

Patula That is not what we have in here. The footprint of the garage.....

Alster I didn't say the garage, I said accessory structures.

Patula Right that could only be 50 percent.

Alster In one place I believe it says it could equal the footprint of the house.

Edens I agree with Stan. I believe that is what you read Pat. And I have the same question that he did. On page 10, the footprint of the garage must not be larger than the footprint of the primary structure.

Patula That's garages yes, but the accessory structures are in a different category from garages.

Alster My concern is whether you call it a garage or an accessory structure when we permit it to get to that size; we are encouraging it to have other uses and if we are going to do that, then maybe there needs to be restrictions also on the utilities that are allowed in there. Certainly someone should be permitted to have electricity in there for lights and what not, but then when you allow sewer, water, electricity, and heat, someone may have a collectible vehicle and they would want to maintain that way in a certain respect and I have a couple of my own. But then again I think that we are creating a situation and encouraging not permitting uses and then depending on someone to turn them in. So I have real concerns with keeping the footprint down whether it is the garage or an accessory building and maybe even limiting the utilities that would be permitted. Maybe it is by special exception. Then again, maybe someone has got some special artifacts or antiques or whatever that they would like to keep that way. They certainly should be able to, but I think otherwise we are encouraging for it to become available for other uses.

Patula Can I repeat this back to you? Ok. You are saying that accessory structures in that category can't be more than 50 percent and garages could be as large as a house footprint wise, but you are saying to reduce the footprint of the garage substantially.

Alster I'm not sure what the percentage is inadequate for either case. Most cases, I mean when you think about a garage, I think about 20 x 40 garage. That is a pretty good size building.

Katz I think that is a very valid concern. If we could look into that.

Edens Well, I'm not clear how you could differentiate between an accessory structure and a garage.

Katz Well they are saying garages as accessory structures.

Edens Right. You could build a garage and use it as an accessory structure.

Katz Ok. Any other questions?

Levy Yes I also had a question. It seems that we are saying that if you have a one story structure, you can still have an accessory structure or garage that is 1-1/2 stories. But if the basic structure of the house is only one story do we want to allow the garage to be higher than that.

Katz I think that is a valid point.

Levy And then I have one other think. It appears that two accessory structures are going to be allowed from the PowerPoint presentation.

Patula That was theoretical.

Levy Ok. Do we want to have any kind of restriction on how close those can be together?

Katz Well then again. If you are saying that it could be 50 percent, you could actually have 150 percent the way this is being, you know if you had the

garage plus the accessory structure of the building. And I agree with that I think there should be a set percentage total somehow. I don't know where everybody else is, but we are playing semantics and that is not what we are after. We are after doing something different. I think that is something that we should also look into. A percentage of total building.

Patula I believe it was met to be the 25 percent, the garage and any other sheds or whatever.

Katz If we can double check that then. Any other questions of staff?

Keller One question. The 1-1/2 stories, it doesn't say a separate townhouse. Now I can't imagine anybody doing a 1-1/2 story, but you never know. There could be that one person out there. So I am kind of thinking that in that part of the Code, you should say a separate townhouse (inaudible) because you just might have somebody who would want to build a 1-1/2 story shed. And I don't think that would look right.

Katz Ok. We are trying to think of everything. We are trying our best here. Any other questions for staff?

Alster Just one other question. Some of the older lots in the older part of the City have extremely deep backyards where the backyard more exceeds the size of the right yard. Again, if we say not to exceed 25 percent of the backyard, 25 percent of some of those yards, we could build a house. So how would that get limited.

Katz I think it would get limited by the size of the structure.

Alster And that would be limiting factor?

Russel A lot of them are small houses actually.

Alster They are small houses with backyards that go back 100 to 200 feet.

Katz And some of them in some cases they subdivide and then you have another kind of concern.

Marraffa What is the setback on the garages over in the Kentlands? My point is it is still all one City. (inaudible) go to another one down the street and it is now 10 foot. (inaudible) because they have alleys it is inconsistency.

Katz There is different zones and that is why you have different zones.

Marraffa Again it goes back to the size. My point is it either ten foot or five foot. They become junk zones and I saying there is already a persistent. (inaudible)

Edens Am I correct. If we, all these requirements that would preclude someone even by special exception from getting a type carriage house over their garage if they wanted to in these zones? And if that is the case, is there a reason why we would want to prohibit that out right.

Patula A carriage house?

Edens Like we have in the MXD zone.

Patula Oh, that type of carriage house.

Edens Above the garage. If we are trying to recreate neo-traditional neighborhoods, why would want to preclude it in traditional neighborhoods?

- Patula The MXD zone as far as I know is the only zone that permits that. In the Historic District if you have at least one acre you can do something like that, but you know how many people have a one acre lot.
- Edens Well I just trying to understanding some sound rationale for precluding it outright. Now I understand that every, in these other zones it would be very subjected on a case-by-case basis. But why would we preclude it outright and not at least allow the possibility of those uses.
- Patula I think a lot of people would love to have the opportunity to have an apartment above their garage.
- Edens Oh, I have one and it's terrific.
- Russel There is another issue. That's more like a use issue. If you take a closer look at this ordinance, you will see that it is really focused on yard requirements and yard coverage and setbacks. It is not really focused on....
- Edens But you get into the story of the house, you are not going to be able to do it within a story and a half.
- Katz And it is a two story house and you are only allowed to have a story and a half then you either would look very strange or you are not going to be able to do it. And I don't know if we want to do that. I would think that we would want to limit it as to the height of the house itself.
- Marraffa Where it is going to come into play is down the road when we start redeveloping neighborhoods. And they want to be neo-traditional, but they are not MXD.
- Edens They want to traditional, they are traditional.

Marraffa They want carriage houses... (inaudible) and we would want to do that and it won't be MXD so we would have to go back and change it and or (inaudible).

Edens I just think we need to think ahead and not preclude things.

Russel This ordinance doesn't deal with the uses, the actual accessory apartment use. But what Geri is saying that if we were looking at the whole accessory apartment concept then some of the requirements and restrictions we put in the ordinance would make it impossible.

Katz And I don't know if we want to do that. First of all I think it would look strange if we did do it this way. I think it should be no higher than the house itself. Were you planning on having a work session on this?

Alster It sounds like we already did.

Russel It looks to me like we have enough issues that we need to research and get back to you.

Schlichting This raises another question that I had which is, in zones where we allow the TND Option, how would these restrictions effect that option, if any?

Patula In the TND it would look a lot of what is already there in the neighborhood and then you would measure the lot widths and setbacks and see what it averages.

Schlichting So it becomes a case by case.

Katz But, we shouldn't leave it up to the interpretation of that day. We should have some statement in there saying that.

Russel But the TND (inaudible) the TND is available in most of the zones and this floats over the whole zoning ordinance. So this would not necessarily preclude the use of the TND. The use of the TND is brought down when a particular lot lends itself to it. In fact they can be used together.

Katz Ok.

Bauer There was an image in the PowerPoint about a garage and then a (inaudible) tool shed next to it. And I think you would probably want to make a distinguishing between those kinds of structures if it is going to be an allowance for a taller and bigger building (inaudible). That ought to be a permanent construction, not a really big metal tool shed. There needs to be some kind of distinction.

Edens It is not really clear what the differences are.

Marraffa And while we are doing the research, the point I was trying to make is, was there another reason that there wasn't (inaudible). How were those figure brought forward, and if there was no reason then lets go back and do the research and just look at (inaudible).

Katz Any other questions of staff?

Somerset What (inaudible) satellite dishes and things like that (inaudible).

Katz That is not an accessory structure. Are there any other questions for staff?

Patula It is a separate part of the zoning ordinance.

Levy I just wanted to bring this up. I know this is kind of a side issue. I know that when I started reading this I started to wonder if underlying is new language or old language -- brackets new language or old language. If we can get some kind of a key, because we obviously don't do a lot of text amendments and then if the public is looking at this, I sure they would be even more confused then I was.

Katz Very good. Any other points? Thank you. We are going to hear from the public. This is a joint public hearing. Anyone that would like to speak on this topic. We ask that you please keep your remarks to know more than three minutes. Any additional testimony that you might have, can be submitted to us and made a part of the record just as your oral testimony. Please state your name and address for the record. Do we have anyone who would like to come before us on this topic? Please Sherri.

Hendry Good evening Mayor and Council, Commissioners. My name is Sherri Hendry. I live at 9113 Rosemont Drive. I am the president of the Rosemont Citizens Association. We have prepared a draft of changes and proposes to the T-354 and I would like to present to you orally and give you a copy afterwards. Proposed Sec. 24-28 (5)(b) the renting of rooms to not more than two persons in an accessory structure R-90 zone should not be permitted unless such structure is part of a developers comprehensive design theme for a subdivision and subject to approval by the City Planning Commission. Adding apartments in an established R-90 zone removes restrictions of the zone and may degrade adjacent property values. Proposed Sec. 24-163, garages may be located in the front, side or rear yard area. The word front should be removed from paragraph (a) and paragraphs (b) and (3). We disagree that a garage should be located in front of the residence. If it detracts from the architectural appearance of the resident, we interpret the sentence to mean a building not connected or connected to the resident. We believe that the garage footprint should not extend in front of the front footprint of the resident. Section 24-163 (a),

the following sentences should be placed in the paragraph: A driveway shall not be permitted from the garage or residence to the accessory building. A paved pedestrian walk from the residence to the accessory building must not exceed a width of three feet. Paragraph (b) (3), nor must the height exceed one and one-half story. We believe that this description is too vague. A height limit for the garage should be specified, with or without a cupola, as measured from the finished surface of the garage floor. We are requesting the addition of paragraph (b) (4), when a garage is connected to the resident by a common wall or breezeway, and the vehicular entrance to the garage faces the street; a driveway, including parking area, shall not exceed 35 percent of the lot area that is in front of the footprint line of the residence. And we are also requesting adding paragraph (b) (5), when the garage is connected to the residence, by a common wall or a breezeway, and the vehicular entrance to the garage faces the rear of the residence, the area of the driveway and parking shall not exceed ten percent of the lot area that is behind the rear footprint line of the residence. A driveway from

Katz Sherri you are at three minutes. How much more do you have?

Hendry I just have one more paragraph.

Katz Well if you are going to submit that, you are going faster than we could write. If you could please submit that to us and then believe me you will find out when the work sessions are. Is there anyone else?

Klitsch Yes I would like to speak. My name is Linus Klitsch 9320 Edgewood Court. I am in the City incidentally. This is also a written comment. The Rosemont community is mostly an R-90 residential zone as defined by Gaithersburg City Code. However, although the addresses for the residences in the community are Gaithersburg, the community is part County. Residents of our community have experienced a resident

property owner of 9016 Edgewood Drive, Montgomery County; build a 3-car garage, a foot print of 30 feet by 50 feet, and a height of 24 feet, with a second level for living space. On the second level there are three dormers in the front and three windows and one door in the rear. One can assume that the door will provide access to a deck, which will be added, but not shown on the approved permit. The garage is located on the back corner of the lot. Our community leadership has verified that the garage is in accordance with the County Code. Approval of the plan by the Department of Permitting Services of the County was issued 7/18/2000. Recently, a gravel base for possible paving has been placed more than 50 feet wide and longer than 50 feet between the residence and garage. It is assumed that paving will cover this area between the residence and the garage. This area was now shown as gravel, parking, or paved area on the approved permit. My point in providing this description is to make you aware of a garage with living accommodations that should not be permitted in a residential area such as ours, or in any other residential area of the City. Before you approve the final draft of T-354, I request that each of you visit the property. After your visit, please ask yourself, do I want an accessory structure, or garage facility, with parking or paving area such as this in my yard, or my neighborhood? Thank you.

Katz Thank you. Fred will take it from you. Is there anyone else in the audience?

Kennel Yes, my name is Lisa Kennel and I live at 9201 Rosemont Drive in Gaithersburg and I guess one of the County houses in that neighborhood. But I wanted to I guess echo some of the points that you folks raised and that my neighbors have raised before me. I think that charm of the homes in our neighborhood would be adversely affected by some of these changes that are being proposed today. While my husband would be really happy to hear that he could build a six car garage in the backyard, I think the entire neighborhood would lynch us. Thank you very much.

Katz Thank you. Anyone else in the audience, please Jon.

May Good evening Mayor and City Council and Planning Commission. My Name Jon May and I live at 8940 Edgewood Drive in the City of Gaithersburg and I would like to just reiterate my support for my other community members and I am glad to hear some of the comments and the reservations that you have also. I would simply add one point to the size of the garage in that area. The house next door to it is identical in size to my house except it has a two car garage instead of a one car garage. But the living space is the same as a walk out basement. The garage that was built was larger than my house and my house is a pretty good size really. It's a beautiful garage. It is very well built. I think it is an attractive garage the way it's built, but I think it is massive. And when you stand in the backyard of that neighbor and I can project myself there because it's like my backyard. And I look to the right and see that garage and it just blows my mind the size. And as Lisa said to allow that to happen in the City of Gaithersburg would be in no ones best interest. So we hope that that would be corrected and the final result would be something that is pleasing to the City and pleasing to the neighborhoods. Thank you.

Katz Thank you Jon. Anyone else please? I see none. Ok. It was suggested that we....

Russel I think you should hold your record open indefinitely.

Katz That would be the next suggestion thank you. What is the pleasure of the Planning Commission please?

Keller Do I have a motion to hold the record open indefinitely?

Hicks So moved.

Bauer Second.

Keller All those in favor?

Commission Ayes (4-0)

Katz And what is the pleasure of the Council please?

Alster I move that we hold our record on T-354 open indefinitely.

Edens Seconded.

Katz It's been moved and seconded, all those in favor please say aye?

Council Ayes (5-0)

Katz Opposed? Carries unanimously as well.

END OF JOINT PUBLIC HEARING
T-354